IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 66/2007

RAVI SHANKAR SRIVASTAVA Vs. STATE OF RAJASTHAN

DATE: 09.04.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. A.K. Gupta for the petitioner.
Mr. B.S. Chhaba, Public Prosecutor for the State.

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The present criminal revision petition under Section 397 Cr.P.C. is preferred by the petitioner against the order dated 07.09.2006 passed by the Special Judge, (ACD Cases), Jaipur, whereby the Court below has taken cognizance against the petitioner under Sections 7,8, 10, 13(1)(a) and 13(1)(d) of the Prevention of Corruption Act, 1988 and Sections 466, 471 and 120-B IPC in FIR No. 110/2004 lodged by Special Police Station Rajasthan State Anti Corruption Bureau, Jaipur.

Learned counsel for the petitioner submits that the petitioner had filed an application before the Government of India, Department of Personnel in May, 2006 against the sanction of prosecution, but it did not consider the same. The petitioner had then filed an application before the learned trial Court against the sanction of prosecution granted by Government of India,

Department of Personnel under Section 19(1) of the Prevention of Corruption Act, 1988 in its letter dated 30.05.2006.

It is also stated that it was brought to the notice of the trial Court that the sanction granted by the Government of India is illegal and invalid on the ground that it had been granted without application of mind. The Government of India had just reproduced word by word the letter of State Government dated 04.11.2005 without changing even comma and full stop.

It is further submitted that without considering the representation which is still pending before the Central Government of India, Department of Personnel, in the interest of justice, the Central Government of India before according sanction, should decide the representation first but the same has not been considered and even not decided.

Learned counsel for the petitioner placed reliance on the judgment rendered by this Court in **S.B. Civil Writ Petition No. 7751/2002- Piyush Ranjan Yaduvanshi Vs. State of Rajasthan, decided on 17.01.2003,** wherein the representation so filed by the petitioner before the Department of Personnel was pending and this Court has held that although normally this Court while exercising power under Article 226 does not interfere in the matter of quashing of FIR and

setting aside of sanction of prosecution, but in the facts and circumstances of the case, deem it proper to direct the respondents to decide the representation on merit and on the basis of material supplied by the petitioner and shall pass the speaking order on the representation and till the disposal of representation, the operation of the orders was ordered to be stayed and with the said observations the writ petition was disposed of.

Applying the same analogy and considering the judgment rendered by the Hon'ble Supreme Court in the case of **U.P. Judicial Officers' Association Vs. Union of India and others, reported in (1994)4 SCC 687** and having considered the rival submissions advanced on behalf of the learned counsel for the petitioner as well as leaned Public Prosecutor for the State, it is not disputed that here in the instant case also, the petitioner has submitted a representation before the Department of Personnel in May, 2006 which has not been yet decided and no order whatsoever has been taken on the representation and communicated to the petitioner.

Thus, in the interest of justice, I deem it proper to direct the respondents to decide the representation of the petitioner on merit on the basis of the material supplied by the petitioner and shall pass speaking order on the representation.

Till the disposal of the representation, the operation of the impugned order dated 07.09.2006 passed by the Special Judge (ACD Cases), Jaipur shall remained stayed and it will be operative only uptil any order is passed on the representation pending before the Department of Personnel, Central Government of India.

With these observations, the revision petition stands disposed of.

Record be sent back forthwith.

(K.S. RATHORE),J.

/KKC/